

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

NAARON DUNBAR,

Plaintiff,

-against-

8:19-CV-0524 (LEK/CFH)

CHAD PICOTTE, *et al.*,

Defendants.

ORDER

I. INTRODUCTION

This matter comes before the Court following a Report-Recommendation filed on May 7, 2019, by the Honorable Christian F. Hummel, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 5 (“Report-Recommendation”).

II. LEGAL STANDARD

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b); L.R. 72.1(c). If objections are timely filed, a court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” § 636(b). However, if no objections are made, a district court need review the report-recommendation only for clear error. Barnes v. Prack, No. 11-CV-857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); Farid v. Bouey, 554 F. Supp. 2d 301, 306–07, 306 n.2 (N.D.N.Y. 2008), abrogated on other grounds by Widomski v. State Univ. of N.Y. at Orange, 748 F.3d 471 (2d Cir.

2014). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” § 636(b).

III. DISCUSSION

No objections were filed in the allotted time period. Accordingly, the Court has reviewed the Report-Recommendation for clear error and has found none. The Court therefore adopts the Report-Recommendation in its entirety.

IV. CONCLUSION

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 5) is **APPROVED and ADOPTED in its entirety**; and it is further

ORDERED, that the following claims are **DISMISSED without prejudice** pursuant to Heck v. Humphrey: false arrest, false imprisonment, malicious prosecution, and violation of due process; and it is further

ORDERED, that Plaintiff’s Fourth Amendment excessive force claim **SURVIVES initial review**; and it is further

ORDERED, that insofar as Plaintiff seeks to bring claims against Defendants in their official capacities, such claims are **DISMISSED with prejudice**; and it is further

ORDERED, that Plaintiff’s claim against Onondaga County is **DISMISSED without prejudice**; and it is further

ORDERED, that Plaintiff is granted an opportunity to file an amended complaint within thirty days from the date of this Order to assert facts supporting a Monell claim against Onondaga County. If Plaintiff does not file an amended complaint within that thirty-day period,

the Clerk of Court is to return this case to the Magistrate Judge for service of the original complaint and summonses; and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on all parties in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: May 29, 2019
Albany, New York



The image shows a handwritten signature in black ink, which appears to be "Lawrence E. Kahn". Below the signature, the name "Lawrence E. Kahn" is printed in a smaller, sans-serif font, followed by "U.S. District Judge" in an even smaller font.